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U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

St. Louis Cardinals LLC

Plaintiff,

v.

Douglas J. Lewis d/b/a STL PRODUCTS

Defendant,

Case #

407CV00473DDN

Defendants Response

Mr. Doug Lewis having its principal address at 4143 Fox Crossing St. Louis, Mo 63034-2009, is the owner of the mark "Go Cards (SM)" and U.S. Application Serial No. 78/616,520 for registration of its mark as applied to its goods in International Class 25.

In answering the Notice / Summons filed by Plaintiff, The St. Louis Cardinals LLC, Defendant says as follows:

1. Plaintiff St. Louis Cardinals, LLC owns the Major League Baseball club known as the St. Louis Cardinals with its principal place of business at 250 Stadium Plaza, St Louis, Missouri 63102, and is organized as a limited liability company under the laws of the State of Missouri.

ANSWER: Defendant admits knowledge of paragraph # 1.

2. Upon information and belief, Defendant is an individual residing at 4143 Fox Crossing, Florissant, Missouri 63034. Upon information and belief, Defendant has been and is engaged in the business of selling merchandise, including clothing and various novelty items, on online retail business designated as "STL Products,".

ANSWER: Defendant admits knowledge of paragraph # 2.

JURISDICTION AND VENUE

3. This Court has subject mater jurisdiction over the federal trademark claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction over the related state law claims pursuant to 28 U.S.C. § 1367.

ANSWER: Defendant admits knowledge of paragraph # 3.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this district and a substantial part of the events giving rise to the claims stated in this Complaint occurred in this district.

ANSWER: Defendant admits knowledge of paragraph # 3.

5. The Cardinals club was founded in 1882 and, since 1900, has been known as St. Louis Cardinals and Cardinals. The Cardinals Club is one of the most successful Major League Baseball clubs in history, with seventeen (17) World Series championship appearances and ten (10) World Series championship titles.

ANSWER: Defendant admits knowledge of paragraph # 5.

6. For many decades and long prior to any use by Defendant of the marks at issue in this litigation, Plaintiff, is predecessors and their licensees and ./ or sponsors have used marks which comprise of contain the words St. Louis Cardinals, Cardinals, Cardinal or Cards, often appearing in the Club's team color red, and/or a depiction of various cardinal bird designs, alone or with other word or design elements, including, without limitation, the marks shown in Exhibit A attached hereto (the Cardinals Marks) to identify its baseball club, its baseball game and exhibition services, and a wide variety of goods and services.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 6 and therefore denies the same and leaves Plaintiff to its proof.

7. Plaintiff owns numerous federal trademark registrations for many of its Cardinal Marks. A list of registrations is attached as Exhibit B.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 7 and therefore denies the same and leaves Plaintiff to its proof.

8. Long prior to any use by Defendant of the marks at issue in this litigation, Plaintiff, its predecessors and their licensees and/or sponsors have extensively promoted and advertised goods and services bearing the Cardinals Marks, and have sold such goods and offered such services in commerce throughout the United States.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 8 and therefore denies the same and leaves Plaintiff to its proof.

9. As a result of the extensive use of the Cardinals Marks on or in connection with merchandise and baseball games and services sold and/or rendered in the United States, such marks have, for many decades and long prior to any use made by Defendant, functioned as unique identifiers and synonyms in the public mind for Plaintiff and its Cardinals Clubs.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 9 and therefore denies the same and leaves Plaintiff to its proof.

10. As a result of the extensive sales and promotions of its goods and services bearing the Cardinals Marks, Plaintiff has built up a reputation for excellence and high quality and enormous goodwill in these trademarks of great value to Plaintiff. Through long use and extensive promotion, the Cardinals Marks have become famous among the relevant consuming public.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 10 and therefore denies the same and leaves Plaintiff to its proof.

11. Upon information and belief, Defendant owns and operates a retail business designated "STL Products" which formerly included a website location at www.stlproducts.com and now includes retail site at www.cafepress.com/stlproducts.com (Collectively "Defendant's Sites"). According to Defendant's Sites, STL Products creates and sells promotional merchandise associated with the city of St. Louis.

ANSWER: Defendant admits knowledge of paragraph # 11.

12. Without authorization or permission from Plaintiff, Defendant is and has been selling and offering for sale a wide variety of merchandise bearing trademarks, designations, logos and designs identical and/or confusingly similar to Plaintiff's Cardinals Marks. (Printouts of Defendant's Sites showing some of his infringing uses are attached hereto as Exhibit C.)

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 12 and therefore denies the same and leaves Plaintiff to its proof.

13. For instance, Defendant has offered for sale, sold, offers for sale and/or sells merchandise, including mugs, t-shirts and mouse pads, bearing the designation I ♥ St. Louis Cardinals ("St. Louis Cardinals" obviously being the name of Plaintiff's Cardinals Club), in the color red which is a team color of Plaintiff, with the word Cardinals depicted in the same stylized script font used and registered by plaintiff and depicting the design of a cardinal bird emanating from the letter C and closely resembling one of Plaintiff's famous cardinal bird designs.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 13 and therefore denies the same and leaves Plaintiff to its proof.

14. Likewise, Defendant has offered for sale, sold, offers for sale and/or sells additional merchandise – including baseball jerseys, t-shirts, golf shirts, infant creepers, bibs, sweatshirts, baseball caps, aprons, messenger and tote bags, plush dolls, mugs, mouse pads, stickers, buttons, magnets and dog shirts – bearing the designation GO CARDS or GO CARDS ST. LOUIS BASEBALL (obvious affectionate rallying cries for the Cardinals Club) in the color red which is a team color of Plaintiff, and often with the word CARDS depicted in the same stylized script font used by Plaintiff and depicting a design of a cardinal bird emanating from the letter C and closely resembling one of Plaintiff's famous cardinal bird designs.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 14 and therefore denies the same and leaves Plaintiff to its proof.

15. Defendant's use of the I ♥ St. Louis Cardinals, Go Cards and Go Cards St Louis Baseball designations, often in the same stylized script and with a similar cardinal bird design as used by Plaintiff, are clearly intended to trade upon the fame and goodwill of Plaintiff's Cardinals Club and Cardinals Marks. Because of the close and deliberate similarities between Defendant's marks and Plaintiff's Cardinals marks, Defendant's use is likely to cause confusion, mistake or deception as to the source or origin of Defendant's goods, and is likely to lead or cause consumers to the false impression that Defendant's goods are associated or affiliated with, authorized, endorsed or sponsored by, or that Defendant is a sponsor of, the Cardinals Club.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 15 and therefore denies the same and leaves Plaintiff to its proof.

16. Although Defendant has no right to use the aforesaid names, marks or designs, he nonetheless seeks to claim trademarks rights in these designations by placing a service mark notice -- SM -- proximate to his infringing designations. Defendant has also filed a federal trademark application, Application No. 78616520 to register the mark Go Cards for "clothing namely: t-shirts, sweatshirts, caps, pants, socks, shoes, gloves, underwear" and that application is presently the subject of an opposition proceeding commenced by Plaintiff in the United States Patent and Trademark Office. In addition. Unbeknownst to Plaintiff, Defendant obtained state trademark registrations for a variety of equally infringing marks designed to associate himself with the Cardinals Club, including Missouri state trademark registrations covering the marks I Love St. Luis Cardinals, Go Cards St. Louis Baseball, Go Cards, Go Cardinals, St. Louis Baseball, Card Ball, Card Ball Bird, and a red bird design with Baseball glove, and Illinois state trademark registrations covering the marks Illinois Cardinals and East St. Louis Cardinals.

(The mark I ♥ St. Louis Cardinals together with al of the above-reference marks registered by Defendant shall be collectively referred to herein as "Defendant's Infringing Marks").

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 16 and therefore denies the same and leaves Plaintiff to its proof.

17. Upon information and belief, Defendant has sought to register, registered and/or used Defendant's Infringing Marks in bad faith and in willful and deliberate violation of Plaintiff's trademark rights, in an intentional effort to cause confusion among purchasers and potential purchasers as to the source, origin or affiliation of Defendant's products, and in order to trade upon the valuable goodwill created by and associated with Plaintiff and its Cardinals Club and Cardinal Marks.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 17 and therefore denies the same and leaves Plaintiff to its proof.

18. Plaintiff has, on multiple occasions, notified defendant of its rights in the famous Cardinals marks and demanded that defendant cease his infringing conduct and use and registration of Defendant's infringing marks, but defendant has refused and has continually offered to license defendant's infringing marks to plaintiff. Although at one point Defendant wrote to plaintiff's counsel to please advise your client that the Lord has spoken to me and that exclusive rights belongs to the St. Louis Cardinals, Defendant has nevertheless continued to seek to license defendant's infringing marks to plaintiff.

ANSWER: Defendant intends in good faith to deny only a part of the allegations of paragraph 18.

19. Upon information and belief, in an effort to conceal his true intent to trade upon the goodwill of plaintiff's Cardinals marks, Defendant has created various flyers or promotional materials using the marks Go Cardinals, Go Cards, I Love the Cardinals and various designs of cardinal birds in connection with the phone number 1-800-327-2263, which is owned by the North American Bird Banding Program a federally funded program jointly administered by the U.S. Department of the interior and the Canadian Wildlife Service. Ironically, the NABBP's function is to track migratory birds throughout the United States and Canada, but in fact, cardinals are not migratory birds, often never traveling more than one mile from where they were born. Upon information and belief, Defendant has no connection to the authorization from the NABBP to promote such organization, and has created these materials purely as a pretext designed to disguise his true motivation to sell merchandise associated with the Cardinals Club.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 19 and therefore denies the same and leaves Plaintiff to its proof.

20. Upon information and belief, by virtue of its unlawful conduct, Defendant has made substantial profits and gains to which he is not law or equity entitled.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 20 and therefore denies the same and leaves Plaintiff to its proof.

21. Upon information and belief, unless enjoined by this Court, Defendant will continue to ignore Plaintiff's rights in its Cardinals marks. As a result of Defendant's unlawful conduct, Plaintiff has been damaged and has suffered, and continues to suffer, immediate and irreparable injury for which it has no adequate remedy at law.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 21 and therefore denies the same and leaves Plaintiff to its proof.

COUNT I
(Federal Trademark Infringement)

22. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 – 21 above with the same force and effects as if set forth fully herein.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 22 and therefore denies the same and leaves Plaintiff to its proof.

23. Defendant's acts described above constitute infringement of registered trademarks in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 23 and therefore denies the same and leaves Plaintiff to its proof.

COUNT II
False Designation of Origin

24. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1-21 above with the same force and effect as if set forth fully herein.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 24 and therefore denies the same and leaves Plaintiff to its proof.

COUNT III
Unfair Competition

26. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-21 above with the same force and effect as if set forth fully herein.

27. Defendant's acts described above constitute unfair competition under the common law of the Sate of Missouri.

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 26 - 27 and therefore denies the same and leaves Plaintiff to its proof.

COUNT IV
Missouri Merchandising Practice Act

28. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-21 above with the same force and effect as if set forth fully herein.

29. Defendant's acts described above constitute unlawful practices under the Missouri Merchandising Practices Act, Missouri Rev. Stat. §§ 407.010 – 407.1370.

COUNT V
Cancellation of Missouri State Registrations

30. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-21 above with the same force and effect as if set forth fully herein.

31. As set forth above, Defendant has obtained the following Missouri State Registrations for marks confusingly similar to Plaintiff's Cardinal Marks:

(a) I Love St Louis Cardinals,	Registration No. S17029
(b) Go Cards St. Louis Baseball,	Registration No. S16927
(C) Go Cards,	Registration No. S16627
(d) Go Cardinals	Registration No. S16920
(e) St. Louis Baseball	Registration No. S16237
(f) Card Ball	Registration No. S15724
(g) Card Ball Bird	Registration No. S15778
(h) Red Bird Design with Baseball Glove	Registration No. S15746

32. Defendant's registration as set forth above should be cancelled from the register by the Secretary of State pursuant to Missouri Rev. Stat. § 417.041

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 32 and therefore denies the same and leaves Plaintiff to its proof.

Count VI
Cancellation of Illinois State Registrations

33. Plaintiff repeats and realleges the allegations set forth in paragraphs 1 – 21 above with the same force and effect as if set forth fully herein.

34. As set forth above, Defendant has obtained the following Illinois state registrations for marks confusingly similar to Plaintiffs Cardinal Marks:

(a) Illinois Cardinals,	Registration No. 89156
(b) East St. Louis Cardinals,	Registration No. 89212

35. Defendant's registration as set forth above should be cancelled from the register by the Secretary of State pursuant to 765 ILCS § 1036/45

ANSWER: Defendant lacks knowledge or information sufficient to form a belief as to he allegations of paragraph 33 -35 and therefore denies the same and leaves Plaintiff to its proof.

It must be noted that Defendants registrations are legal registrations issued by legal and authorized entities i.e. the United States Patent and Trademark Office and the Secretary of States Office of the State of Missouri.

Defendant operates in accordance with the law and does produce sale and reproduce "Official Cardinals Products". Defendant does not create "Official Cardinals Products" and run from the police to some back alley location until the coast is clear.

Plaintiff who operates in the arena of "Official Cardinals and Official MLB Products" is NOW calling what used to be "bootleggers" and Unauthorized "Knock Off's" Agents and Predecessors, in a discriminatory effort to monopolize and single out Defendants registered products and shut down his small business. It must be noted Plaintiff's (now) "Agents and Predecessors of "Go Cards St. Louis Baseball" sales were NOT registered TM product nor were they granted the official MLB SEAL.

Defendants legally registered "Go Cards" mark is presently pending as an authorized and approved "Go Cards" mark with the United States Patent and Trademark Office. This legal and approved mark which has nothing to do with the St. Louis Baseball Cardinal Team the Plaintiff desires to obliterate and wipe out in its anger to discriminate against Defendant small business.

The following is pending with the United States Patent and Trademark Office:

UNITED STATES PATENT & TRADEMARK OFFICE

Commissioner for Trademarks P.O. Box 1451
Trademark Trial & Appeal
Alexandria, VA 22313-1451 1-800-786-9199
Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

In re Application Serial No. 78/616,520
Filed: April 25, 2005
For Mark: GO CARDS
Published in the Official Gazette: April 18, 2006

St. Louis Cardinals LLC
______________________________,

Opposer,

v.

Douglas J. Lewis
______________________________,

Applicant.

Mark: "Go Cards"

Opposition # **91172611**

INTERROGATORIES

Mr. Doug Lewis having its principal address at 4143 Fox Crossing St. Louis, Mo 63034-2009, is the owner of the mark "Go Cards (SM)" and U.S. Application Serial No. 78/616,520 for registration of its mark as applied to its goods in International Class 25.

In answering the Interrogatories filed by the Opposer, The St. Louis Cardinals LLC, Applicant says as follows:

#1.

State the date when Applicant first selected Applicant's Mark for use or intended use in connection with any goods or services in the United States, describe in detail the reason(s) for and circumstances of such selection, and identify all persons or entities who participated in or were consulted in such selection, including a description of the nature of heir participation or consultation.

Go Cards(sm)
Registration #S016627
Class 35 - Advertising and business
First Used - March 20, 1999
Intended use - **Wildlife Conservation** of the Northern Cardinal Redbird
Reason(s) - "**Go Cards**"(SM) Opposition # 91172611 is Wildlife Conservation and the preservation of the Northern Cardinal "Red Bird". It is not related to Baseball, St. Louis Baseball or the St. Louis Cardinals Baseball Team.

#2.

Identify all marks other than Applicant's Mark comprising or containing the words CARDINALS, CARDINAL or CARDS and/or a depiction of various cardinal birds, alone or in combination with other word or design elements, which Applicant has used or intends to use in connection with any goods or services in the United States or in commerce with the United States and with respect to each such mark, (a) state the date when Applicant first selected such mark for use or intended use in connection with any goods or services in the United States or in commerce with the United States: (b) describe in detail the reasons(s) for and circumstances OF SUCH SELECTION: AND (c) identify all persons or entities who participated in or were consulted in such selection, including a description of the nature of their participation or consultation.

Go Cardinals (sm)
Registration #S016920
Class 35 - Advertising and business
First Used - March 20, 1999
Intended use - **Wildlife Conservation** of the Northern Cardinal Redbird
Reason(s) - "**Go Cardinals**"(SM) is Wildlife Conservation and the preservation of the Northern Cardinal "Red Bird". It is not related to Baseball, St. Louis Baseball or the St. Louis Cardinals Baseball Team.

Go Cards St. Louis Baseball ™

Registration #016927
Class 25 - Clothing
First Used - March 20, 1999
Intended use - Applicant maintains the Missouri Trademark Registration "Go Cards St. Louis Baseball ™ #016927" with a registration affixed date of May 25, 2005. Applicant's "Go Cards St. Louis Baseball ™ #016927"relates to St. Louis Baseball and has been adopted by Opposition's fans as a battle cry in support of the St. Louis Cardinals Baseball Team. Of which Defendant has cancelled (C-attached cancellation letter).

This fan-adopted battle cry "Go Cards St. Louis Baseball ™ #016927" relates to the support of St. Louis Baseball. This adoption by the St. Louis Cardinals Fans is fan driven, fan adopted and fan supported.

I Love St. Louis Cardinals (sm)

Registration #S017029
Class 35 - Advertising and business

#3.

Identify any searches, opinions, investigations, analyses or studies related to the selection, adoption or clearance of Applicant's Mark or Applicant's other cardinal marks, including without limitation the persons involved, the date(s), and the data or results of those searches, opinions, investigations, analyses or studies.

The USPTO trademark examining attorney and the Missouri Secretary of States Office in making their examination of applicants application for above registrations and ruling in his priority action on the merits that a search of the office records and has found no similar registered or pending State or Federal mark which would bar registration under Trademark Act Section 2(d), 15U.S.C. Section 1052(d).

#4.

Identify each product or service on or in connection with which Applicant (or any person or entity authorized by Applicant) has used, is using or intends to use Applicant's Mark or Applicant's other cardinals marks in the United States or in commerce with the United States, and for each of Applicant's Products/Services for which use has been made, identify:

Referenced Applicants website; www.cafepress.com/stlproducts.com

Referenced attached "Certificate of Registration(s) for above marks.

STATE OF MISSOURI
Office of
Secretary of State

CERTIFICATE OF REGISTRATION

I, MATT BLUNT, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the Service mark Registration #S016827 for

The Written Words "Go Cards"

to be used in connection with Class 35–Advertising and business having first been used by registrant on March 20, 1999 and first used in Missouri on March 20, 1999 has this day been filed by

Douglas J. Lewis
7935 Glenside Pl.
St. Louis, MO 63130

A facsimile of said mark is hereto attached and has been duly recorded in this office in conformity with Section 417.016 RSMo. 1997(Supp). Said mark is registered for period of ten years and will expire October 11, 2014.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 12th day of October, 2004

Secretary of State

STATE OF MISSOURI
Office of
Secretary of State

CERTIFICATE OF REGISTRATION

I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the Service mark Registration #S016920 for

The written words "Go Cardinals".

to be used in connection with Class 35–Advertising and business having first been used by registrant on March 20, 1999 and first used in Missouri on March 20, 1999 has this day been filed by

Douglas J. Lewis
7935 Glenside Pl.
St. Louis, MO 63130

A facsimile of said mark is hereto attached and has been duly recorded in this office in conformity with Section 417.016 RSMo. 1997(Supp). Said mark is registered for period of ten years and will expire May 2, 2015.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 3rd day of May, 2005.

Secretary of State

STATE OF MISSOURI
Office of
Secretary of State

CERTIFICATE OF REGISTRATION

I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the Trademark Registration #016927 for

Go Cards
St. Louis Baseball

to be used in connection with Class 25–Clothing having first been used by registrant on March 20, 1999 and first used in Missouri on March 20, 1999 has this day been filed by

Douglas J. Lewis
7935 Glenside Pl.
St. Louis, MO 63130

A facsimile of said mark is hereto attached and has been duly recorded in this office in conformity with Section 417.016 RSMo. 1997(Supp). Said mark is registered for period of ten years and will expire May 24, 2015

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 25th day of May, 2005.

Secretary of State

STATE OF MISSOURI
Office of
Secretary of State

CERTIFICATE OF REGISTRATION

I, ROBIN CARNAHAN, Secretary of State of the State of Missouri, and Keeper of the Great Seal thereof, hereby certify that the Service mark Registration #S017029 for

The written words: "I Love St. Louis Cardinals"

to be used in connection with Class 35–Advertising and business having first been used by registrant on April 12, 2005 and first used in Missouri on April 12, 2005 has this day been filed by

Douglas J. Lewis
7935 Glenside Pl.
St. Louis, MO 63130

A facsimile of said mark is hereto attached and has been duly recorded in this office in conformity with Section 417.016 RSMo. 1997(Supp). Said mark is registered for period of ten years and will expire August 14, 2015.

In Testimony Whereof, I hereunto set my hand and affix the Great Seal of the State of Missouri. Done at the City of Jefferson, this 15th day of August, 2005.

Secretary of State

"Go Cards" (SM) Registration #S016627
And "Go Cardinals" (SM) Registration #S016920
Opposition # 91172611 is wildlife conservation and the preservation of the Northern Cardinal "Red Bird". It is not related to Baseball, St. Louis Baseball or St. Louis Cardinals Baseball Team.

The opposition / Plaintiffs misled discriminatory persecution of Applicant's "Go Cards" mark as it relates to Animal Conservation would be as inappropriate as opposition's persecution of Go Cards marks as it applies to:

Go Cards

Children's Playing Cards

International Class: 028

Serial Number: 78618872 **Class Status: Active**

Series of children's playing cards using matching sets of images related to different topics

Go Cards

ENCODED ELECTRONIC CHIP CARDS CONTAINING PROGRAMMING USED TO IDENTIFY ANIMALS

International Class: 009

Class Status: Active

Registration Number: 2712571

Basis: 44(e)

Go Cards

Printed Postcard Advertisements

International Class: 035

Registration Number: 2017558

Class Status: Active

dissemination of printed postcard advertisements for others

Go Cards

Educational Cards

Registration Number: 1423867

Go Cards

TRAVEL AGENCY SERVICES

International Class: 039

Registration Number: 1299912

Class Status: Active

Basis: 1(a)

The USPTO trademark examining attorney and the Missouri Secretary of States Office was right in ignoring opposers plead in making their examination of applicants application for registration of its "Go Cards(SM)" mark and ruling in his priority action on the merits that a search of the office records and has found no similar registered or pending State or Federal mark which would bar registration under Trademark Act Section 2(d), 15U.S.C. Section 1052(d).

Applicant maintains the Missouri Trademark Registration "Go Cards St. Louis Baseball ™ #016927" with a registration affixed date of May 25, 2005. Applicant's "Go Cards St. Louis Baseball ™ #016927"relates to St. Louis Baseball and has been adopted by Opposition's fans as a battle cry in support of the St. Louis Cardinals Baseball Team of which Defendant has cancelled (C-attached cancellation letter).
This fan-adopted battle cry "Go Cards St. Louis Baseball ™ #016927" relates to the support of St. Louis Baseball, not St. Louis Cardinal Baseball. . This adoption by the St. Louis Cardinals Fans is fan driven, fan adopted and fan supported. Of which Defendant has cancelled (C-attached cancellation letter).

Defendants, **I Love St. Louis Cardinals** (sm)
Registration #S017029
Class 35 - Advertising and business

Per the United States Patent and Trademark Office the "I Love" marks have not violated any unfair competition or confusion issue.

It is well settled that customers who purchase geographical promotion items such as those promotional goods set forth in Defendants registered service mark "I Love St. Louis Zoo" (SM) have become so conditioned by the multitude of similar composite "I Love" marks over (**1,745 Records** found) that they are educated to distinguish between different such marks on the basis of minute distinctions. So the dilution doctrine does not apply ***Standard Brands, Inc. v. RJR Foods, Inc, 192 U.S.P.Q. 383 (TTAB 1976); Columbia University. V. Columbia/HCA Healthcare Corp.A, 964 F. Supp. 733, 43 U.S.P.Q.2d 1083 (S.D.N.Y. 1997).***

THE LAW FORBIDS DISSECTION

"Marks must be considered in their entireties."

TEMP§1207.01(c)(ii), and TMEP§1213.05

The Missouri Secretary of States Office was right in ignoring plaintiff's plead in making their examination of defendants application for registration of its "I Love St. Louis Cardinals (SM)" mark and ruling in his priority action on the merits that a search of the office records and has found no similar registered or pending State or Federal mark which would bar registration.

In – In re Hearst Corp., USPQ2d 1238 (Fed. Cir. 1992), the Court reversed the Board's holding that VARGA GIRL was confusingly similar to VARGAS, both for calendars:
"Marks tend to be perceived in their entireties, and all components thereof must be given appropriate weight. See Opryland USA Inc. v. Great American Music Show, Inc., 970 F.2d 847,23 USPQ2d-1471 (Fed. Cir. 1992)." (Emphasis quoted)

"(Likelihood of confusion cannot be predicated on dissection of a mark, that is, on only one part of a mark)".

I Love NY

Serial Number: 73758742 Assignment Information

Registration Number: 1555836

Mark

(words only): I NY

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 1997-05-23

Filing Date: 1988-10-20

Transformed into a National Application: No

Registration Date: 1989-09-12

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

Date In Location: 2004-01-15

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. NEW YORK STATE DEPARTMENT OF ECONOMIC DEVELOPMENT

Address:
NEW YORK STATE DEPARTMENT OF ECONOMIC DEVELOPMENT
ONE COMMERCE PLAZA
ALBANY, NY 12245
United States
Legal Entity Type: Corporation
State or Country of Incorporation: New York

International Class: 025

Class Status: Active
T-SHIRTS, GLOVES, HATS, JACKETS, SPORTSHIRTS, SWEATERS, SCARVES, SWEATSHIRTS AND SHOES
Basis: 1(a)
First Use Date: 1977-07-15
First Use in Commerce Date: 1977-07-15

CORRESPONDENCE INFORMATION

Correspondent
WILLIAM J MCCANN JR
DEPARTMENT OF ECONOMIC DEVELOPMENT
ONE COMMERCE PLAZA
ALBANY, NY 12245

International Class: 025 **V.** *NY.* International Class 025

OFFICE RECORDS SEARCH: The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d).
TMEP §704.02.

I Love NY v. NY of the parties clearly do not look alike, sound alike, or project the same commercial impression.

NY

Serial Number: 76412769 Assignment Information

Registration Number: 2861974

Mark

(words only): NY

Standard Character claim: No

Current Status: Registered.

Date of Status: 2004-07-13

Filing Date: 2002-05-22

Transformed into a National Application: No

Registration Date: 2004-07-13

Register: Principal

Law Office Assigned: LAW OFFICE 110

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. New York Jets LLC

Address:
New York Jets LLC
1000 Fulton Avenue
Hempstead, NY 11550
United States
Legal Entity Type: Ltd Liab Co
State or Country Where Organized: Delaware

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active
men's, women's and children's clothing, namely, fleece tops and bottoms, caps, headwear, T-shirts, sweatshirts, shorts, tank tops, sweaters, pants, jackets, turtlenecks, golf shirts, woven shirts, knit shirts, jerseys, wristbands, warm up suits, wind resistant jackets, raincoats, parkas, ponchos, gloves, ties, suspenders, cloth bibs, sleepwear, namely, night shirts and pajamas, mittens, knit hats and caps, scarves, aprons, headbands, underwear and sneakers

Basis: 1(a)
First Use Date: 2002-08-00
First Use in Commerce Date: 2002-08-00

ADDITIONAL INFORMATION

Section 2(f)

Design Search Code(s):
26.03.21 - Ovals that are completely or partially shaded

Correspondent
David M. Proper (Attorney of record)

DAVID M. PROPER
NFL PROPERTIES LLC
280 PARK AVE FL 16
NEW YORK NY 10017-1216

Phone Number: (212) 450-2000
Fax Number: (212) 681-7599

I Love STL

Serial Number: 78523275 Assignment Information
Registration Number: 3076081

Mark: **I Love STL**

(words only): I LOVE STL

Standard Character claim: Yes
Current Status: Registered.

Date of Status: 2006-04-04

Filing Date: 2004-11-27

Transformed into a National Application: No

Registration Date: 2006-04-04

Register: Principal

Date In Location: 2006-04-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Lewis, Doug

Address:
Lewis, Doug
7935 Glenside Pl
St. Louis, MO 63130
United States
Legal Entity Type: Individual
Country of Citizenship: United States

GOODS AND/OR SERVICES

International Class: 025

Class Status: Active
Clothing, **Basis:** 1(a)
First Use Date: 2004-04-26
First Use in Commerce Date: 2004-04-26

ADDITIONAL INFORMATION

Disclaimer: "STL"

CORRESPONDENCE INFORMATION

Correspondent
DOUG LEWIS
7935 GLENSIDE PL
SAINT LOUIS, MO 63130

International Class: 025 v. ***STL***.International Class 025

OFFICE RECORDS SEARCH: The Office records have been searched and no similar registered or pending mark has been found that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d).
TMEP §704.02.

STL

This page was generated by the TARR system on 2006-09-04 20:31:55 ET

Serial Number: 78093801 Assignment Information

Registration Number: 2700384

Mark

(words only): STL
Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-03-25

Filing Date: 2001-11-16

Transformed into a National Application: No

Registration Date: 2003-03-25

Register: Principal
Current Location: 900 -File Repository (Franconia)

Date In Location: 2003-04-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. Sterling Doubleday Enterprises, LP

Composed Of:
Mets Partners, Inc. A New York corporation.
Address:
Sterling Doubleday Enterprises, LP
525 NW Peacock Blvd.
Port St. Lucie, FL 34986
United States
Legal Entity Type: Partnership
State or Country Where Organized: Delaware
Phone Number: 561.871.2100
Fax Number: 561.878.9802

International Class: 025

Class Status: Active
CLOTHING; NAMELY, SHIRTS, SHORTS, TEE SHIRTS, POLO SHIRTS, GOLF SHIRTS, TANK TOPS, JOGGING SUITS, SOCKS, UNDERWEAR, JACKETS, SWEATERS, VESTS, PANTS, PONCHOS, VISORS, RAINCOATS, HATS, CAPS, CLOTH BIBS, TIES, PAJAMAS, BABY PANTS, BABY BOOTIES AND SHORT SETS, SWEATSHIRTS, MITTENS, GLOVES, KNITTED HATS, SCARVES, HOSIERY, WRIST BANDS, HEAD BANDS, ROBES, APRONS, SHOES, CLOTH DIAPER SETS, WIND RESISTANT JACKETS, JUMPSUITS, SWEATPANTS,

OVERALLS, BANDANAS, BEACHWEAR, BATHING SUITS, BELTS, BERMUDA SHORTS, BLOUSES, COATS, DRESSES, GYM SUITS, HEAD WEAR, LEATHER JACKETS, JERSEYS, PULLOVERS, ROMPERS, RAINWEAR, PARKAS, NIGHT SHIRTS, NECKWEAR, V-NECK SWEATERS AND KNIT SHIRTS.
Basis: 1(a)

First Use Date: 2001-04-05
First Use in Commerce Date: 2001-04-05

PROSECUTION HISTORY

2003-03-25 - Registered - Principal Register

CORRESPONDENCE INFORMATION

Correspondent
D. Scott Poley (Attorney of record)

D. SCOTT POLEY
Professional Baseball Promotion Corporat
201 Bayshore Drive Southeast
Saint Petersburg FL 33701

Phone Number: 727.822.6937 ext. 3121
Fax Number: 727.821.5819

Serial Number: 76161932 Assignment Information

Registration Number: 2565162

Mark

(words only): STL

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-04-30

Filing Date: 2000-11-08
Transformed into a National Application: No
Registration Date: 2002-04-30

Law Office Assigned: LAW OFFICE 106

Date In Location: 2002-05-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

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1. St. Louis Cardinals, L.P.
Composed Of:
Gateway Group, Inc., a Missouri corporation
Address:
St. Louis Cardinals, L.P.
250 Stadium Plaza
St. Louis, MO 63102
United States
Legal Entity Type: Limited Partnership
State or Country Where Organized: Missouri

GOODS AND/OR SERVICES

International Class: 025
Class Status: Active
CLOTHING, NAMELY, CAPS, HATS, HEADWEAR, SHIRTS, T-SHIRTS, SHORTS, BASEBALL UNIFORMS, JERSEYS, SWEATSHIRTS, BOXER SHORTS, SLEEPWEAR, JACKETS, INFANTWEAR, FOOTWEAR, SOCKS
Basis: 1(a)
First Use Date: 1940-04-16
First Use in Commerce Date: 1940-04-16

CORRESPONDENCE INFORMATION

Correspondent
MARY L KEVLIN (Attorney of record)

MARY L KEVLIN
COWAN LIEBOWITZ & LATMAN PC
1133 AVENUE OF THE AMERICAS
NEW YORK NY 10036-6710

International Class: 25 (Clothing) granted, above for each.

ILI I LOVE IT

Current Status: Registered.
Registration Number: 2927253
Date of Status: 2005-02-22
Filing Date: 2003-03-24

International Class: 025

I LOVE YOU

Registration Number: 2868461
Concept-Service Partner fur Kundenorientrierte Kommunikation
Adolf-Todt-Strasse 12
D-65203 Wiesbaden
Fed Rep Germany
Current Status: Registered.
Date of Status: 2004-08-03
Filing Date: 2002-10-17

International Class: 025

I LOVE IT HERE

Registration Number: 2842430
Current Status: Registered.
Date of Status: 2004-05-18
Filing Date: 2002-12-12

Clausen, Cindy
3633 Lakewood Dr
Sebring, FL 33872
United States
Legal Entity Type: Individual

International Class: 025

I LOVE BAGELS

Registration Number: 2788215
NAJA, LLC
17179 Amberjack Lane
Sugarloaf, FL 33042
United States
Current Status: Registered.
Date of Status: 2003-12-02
Filing Date: 2002-06-13

International Class: 025

I LOVE MY WORM

Registration Number: 3001502
Knight Manufacturing Co., Inc.
P. O. Box 6162
Tyler, TX 76711
United States
Current Status: Registered.
Date of Status: 2005-09-27

International Class: 25 (Clothing) granted, above for each.

It is well settled that "marks that may suggest somewhat similar connotation in a slightly different manner', and are dissimilar in sound, sight and appearance when compared in the entireties, may not give rise to a likelihood of confusion

Further is must be noted that Defendant has NEVER received a notice written or oral to cease from its use of the following marks that Defendant has voluntarily cancelled.

(1) Go Cards St. Louis Baseball,	Registration No. S16927
(2) St. Louis Baseball	Registration No. S16237
(3) Card Ball	Registration No. S15724
(4) Card Ball Bird	Registration No. S15778
(5) Red Bird Design with Baseball Glove	Registration No. S15746
(6) Illinois Cardinals,	Registration No. 89156
(7) East St. Louis Cardinals,	Registration No. 89212

Plaintiff is angered because the United States Patent and Trademark Office would NOT be in agreement with Plaintiff re: "Go Cards" Opposition # 91172611. Plaintiff in anger singled out (DISCRIMINATION) and fully attacked Defendant small business as it applied to "any use" of the words Cardinal, Cards, Go Cards, and instituted a Federal Complaint without prior notification.

Defendant has received "NO" prior notice to cease use.

Defendants website www.cafepress/stlproducts.com disclaimer makes is perfectly clear that Defendant is not affiliated with Plaintiff.

It is a sad day and a loss to sportsmanship when the Plaintiff would stoop so low as to reach down and qualify bootleggers and knockoffs as agents and predecessors in an attempt to have Defendant cancel his registrations so Plaintiff can run to registration for themselves.

Defendant contends that Plaintiff's complaint be respectfully traversed.

WHEREFORE, Applicant prays that Case # 407CV00473DDN be dismissed; and for such other and further relief as the court may deem proper.

Respectfully Submitted:

Dated: March 27, 2007

By: ______________________
Mr. Doug Lewis

CERTIFICATE OF MAILING AND SERVICE

I certify that on March 27, 2007 an original of Defendants Response is being deposited with the United States Postal Service as First Class Mail in an envelope to:

Nicholas B. Clifford, Jr
Armstrong Teasdale LLP
One Metropolitan Square,
Suite 2600
Florissant, MO 63034
314-621-5070
Fax: 314 621-5065
Email: nclifford@armstrongteasdale.com

Dated: March 27, 2007

By: ______________________
Mr. Doug J. Lewis